

Remarks

The Applicants have amended Claim 1 to recite that the cellulose acetate propionate continuous filaments are “melt spun” cellulose acetate propionate continuous filaments. Support may be found throughout the Applicants’ specification such as in paragraphs [0038] and [0046], for example.

The Applicants respectfully request that the above amendment be entered into the official file. In that regard, the Applicants note that this amendment does not raise new issues or require further searching inasmuch as the issue was already raised in the Applicants’ last Response and specifically addressed in the extent July 21, 2011 Official Action.

The Applicants note with appreciation the Examiner’s helpful and detailed comments in addressing the rejection of Claims 1-3 and 6-7 over the combination of Aranishi with Chen. The Applicants respectfully submit, however, that there are several problems in the rejection. First, the Applicants will again address the issue of inherency or “expected” properties. The Applicants agree that inherency may be employed in rejections under 35 USC §§102 or 103. However, reliance on the case law in the rejection, namely *In re Napier* and *In re Grasselli*, confirms the Applicants’ point that inherency is improper when rejecting claims under 35 USC §103 over a combination of at least two references. Both the citation and the MPEP (at MPEP 2112) and in the rejection refers to “a prior art reference.” This means that a single reference is being relied upon in the context of §§102 or 103. There is nothing in either of those cases that suggests in any way that it is proper to employ inherency or “expected” results in a rejection where references are combined. Inherency rejections are limited to single references whether under §§102 or 103.

That is not the case in this instance where the rejection is based on a combination of Aranishi with Chen. As such, the reliance on inherency or expected properties is in error. For this reason alone, the Applicants respectfully submit that the rejection must be withdrawn.

As noted above, the Applicants have amended Claim 1 to recite that the filaments are melt spun cellulose propionate continuous filaments. This means that the teachings of Chen are utterly inapplicable and the disadvantages associated with the dry spinning or wet spinning taught by Chen as outlined in the Applicants’ last Response will be present.

The rejection thus turns to Aranishi for the additional importation of teachings with respect to the fact that Aranishi teaches melt spun fibers. The Applicants agree that Aranishi discloses melt spun fibers. However, the Applicants respectfully submit that there is no motivation provided by Aranishi to employ melt spinning in either dry spinning or wet spinning, and there is no indication that there would be success in so doing. In that regard, those skilled in the art know that melt spinning inherently involves heating the raw material to a temperature beyond the glass transition point and beyond the melting point. This causes the raw material to transform into a different state (other than the aforementioned inclusion of raw materials) that can and does have a serious impact on the physical characteristics on the resulting fibers.

Thus, if one skilled in the art were to employ the melt spinning as taught by Aranishi for the alleged advantage of "excellent mechanical properties," one skilled in the art would reasonably be able to anticipate that there would be additional effects on the resulting filaments. For example, it is well known that melting material prior to spinning and the subsequent spinning process has an impact on the crystallinity and orientation of particles within the material which result in any number of differences in physical characteristics. As a consequence, one skilled in the art would not be motivated to make the combination. The Applicants therefore respectfully submit that the combination of Aranishi with Chen is inapplicable. Withdrawal of the rejection is respectfully requested.

In light of the foregoing, the Applicants respectfully submit that the entire application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



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